

BAYER HEALTHCARE LLC,

13 Civ. 2501 (JSR)

PRELIMINARY
INJUNCTION
ORDER

ORDER

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Pending before the Court is the motion of plaintiff Bayer HealthCare LLC ("Bayer") for a preliminary injunction requesting various injunctive relief as against defendant Sergeant's Pet Care Products, Inc. ("Sergeant's") pursuant to Fed. R. Civ. P. 65. See ECF No. 17. The Court conducted a three-day hearing on the matter from May 22 to May 24 2013.

Having considered the testimony before the Court and the parties' arguments, and for reasons that were briefly stated in Court on May 24, 2013, see transcript, and that will be explained in more detail in a forthcoming written opinion, the Court hereby grants in part and denies in part Bayer's motion. Specifically, Sergeant's is hereby preliminarily enjoined, pending final disposition of this action, from making or continuing to make express or implied claims in its advertising that its flea and tick products prevent ticks from coming into contact with the pet. To that end, Sergeant's is further ordered, on pain of contempt, to recall from all channels of distribution by no later than May

21 29, 2013, the so-called "dog in the bubble" advertisement for Sentry Fiproguard Max (Ex. 82 at the hearing).

Bayer's other requests for injunctive relief specified in its motion of May 6 2013 are hereby denied, without prejudice to Bayer pursuing its causes of action relating to the purported falsity of these claims in further proceedings in this case.

7 2 of \$300,000.00 pursuant to Fed. R. Civ. P. 65 (c). Security in that amount must be posted with the Clerk of the Court by May 29, 2013.

SO ORDERED.


JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
May 24, 2013

7:10 pm,